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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/736,801

12/16/2003

Bert Klebl

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EXAMINER

HAMA, JOANNE

ART UNIT

PAPER NUMBER

1632

NOTIFICATION DATE

DELIVERY MODE

08/12/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPatent.E-Filing@sanofi-aventis.com  
andrea.ryan@sanofi-aventis.com

Applicant filed a response to the Final Action of January 4, 2008 on July 7, 2008.

### 3a. Amendments

Applicant has amended claims 1 and 18 in the amendment filed July 7, 2008. The amendment will not be entered because the newly added phrase, requires that the yeast to be obtained have a detectable phenotype. This requires a new search and consideration. As such, the claims will not be entered and response to Applicant's rebuttals, will be answered as they apply to the claims filed October 3, 2007.

It is noted that the newly added phrase will raise issues of 112, 2<sup>nd</sup> paragraph because the first half of claim 1, step a, is to cause a genetic modification to yeast, wherein the phenotype is not detectable; however, the newly added phrase indicates that the phenotype is detectable.

Claims 2-4, 8, 11, 12, 16, 19, 22 are cancelled.

Claims 1, 5-7, 9, 10, 13-15, 17, 18, 20, 21, 23 are under consideration.

### 11. Request for Reconsideration/Other

#### ***Claim Objection***

Applicant's arguments filed July 7, 2008 have been fully considered but they are not persuasive. Applicant indicates that in the instant amendment, claim 23 is cancelled. In response, the instant claim set has not been entered. As such, the objection as it applies to claim 23 remains.

**35 USC § 112, 2<sup>nd</sup> parag.**

Applicant's arguments filed July 7, 2008 have been fully considered but they are not persuasive. Applicant indicates that claim 23 has been cancelled without prejudice. In response, the rejection to claim 23 remains because the instant claims have not been entered (Applicant's response, page 9). Applicant has indicated that claims 1 and 18 have been amended to address that the phenotype of the genetically modified yeast is perceptible from the outside (Applicant's response, page 9). In response, the claims have not been entered and thus, the rejection as it applies to this issue remains.

**35 USC § 102**

Applicant's arguments filed July 7, 2008 have been fully considered but they are not persuasive. Applicant indicates that claim 23 has been cancelled (Applicant's response, page 11). In response, the instant claims have not been entered, and thus, the rejection as it applies to claim 23 remains. With regard to claims 1, 9, 10, 17, 18, 20, 21, 23 being anticipated by Cattopadhyay et al., Applicant indicates that amended claim 1 is not anticipated by the art. In response, Applicant's amended claims have not been entered. As such, the rejection as it applies to this issue remains.

No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Hama, Ph.D. whose telephone number is 571-

272-2911. The examiner can normally be reached Mondays, Tuesdays, Thursdays, and Fridays from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras, can be reached on 571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

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